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Clerk
District Court

(sw)

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For The Northern Mariana Islands
By _____
(Deputy Clerk)

Attorney for defendant
Eric John Tudela Mafnas

**DISTRICT COURT FOR THE
NORTHERN MARIANA ISLANDS**

UNITED STATES OF AMERICA,) Case No. CR 04-00038
)
 Plaintiff,) SENTENCING
) MEMORANDUM
 vs.)
)
 ERIC JOHN TUDELA MAFNAS, et)
 al.,)
 Defendants.)

Paragraph 84 of the presentence report states, "Specific Offense Characteristics: None," and paragraph 86 of the presentence report states, "Adjustment for Role in the Offense: The defendant was an organizer, leader, manager, or

COPY

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supervisor in any criminal activity other than described in [U.S.S.G. § 3B1.1] (a) or (b) and therefore, pursuant to U.S.S.G. § 3B1.1, a two level increase in [sic] applied."

The undersigned is informed by United States Probation Officer Melinda N. Brunson that the presentence report was given to the attorney for the government on November 3, 2005. Fed. R. Crim. P. 32(f)(1) and U.S.S.G. § 6A1.2(b) provide, "Within 14 days after receiving the presentence report, the parties must state in writing any objections, including objections to material information, sentencing guideline ranges, and policy statements contained in or omitted from the report." The 14th day after November 3, 2005, is November 17, 2005. *The government had not responded to the presentence investigation report as of February 7, 2006.* (Addendum to Presentence Report (dated Feb. 7, 2006).)

On February 8, 2006, the government served the undersigned with a copy of a memorandum regarding sentencing. (Government's Memorandum Regarding Sentencing (filed Feb. 7, 2006).) The government's memorandum regarding sentencing is a statement in writing of the government's objections to paragraphs 84 and 86 of the

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presentence report. (Government's Memorandum Regarding Sentencing at 3-4 ("SENTENCING GUIDELINES DISCUSSION")(filed Feb. 7, 2006).) *When the undersigned asked AUSA Timothy E. Moran why the government's memorandum regarding sentencing was filed and served so late, he said, "That's the way we do things here," or words to that effect.*

Fed. R. Crim. P. 32(f)(2) and U.S.S.G. § 6A1.2(b) provide, "An objecting party must provide a copy of its objections . . . to the probation officer." *Just yesterday the undersigned was advised by United States Probation Officer Melinda N. Brunson that she was unaware of any government memorandum regarding sentencing.* (See also, Government's Memorandum Regarding Sentencing at 5 ("CERTIFICATE OF SERVICE")(filed Feb. 7, 2006).) Fed. R. Crim. P. 32(f)(3) and U.S.S.G. § 6A1.2(b) provide, "After receiving objections, the probation officer may meet with the parties to discuss the objections. The probation officer may then investigate further and revise the presentence report accordingly."

The government has failed to provide a copy of its memorandum regarding

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sentencing to defendant Eric John Tudela Mafnas in a timely manner. The government has failed to provide a copy of its memorandum regarding sentencing to the probation officer in a timely manner *or at all*. Accordingly, the government's memorandum regarding sentencing should be stricken.

Dated, Hagåtña, Guam.

February 14, 2006.

Respectfully submitted,


HOWARD TRAPP
Attorney for defendant
Eric John Tudela Mafnas

(DOCUMENTS/SentMemo.EMafnas)

DECLARATION OF SERVICE

I, Reina Y. Urbien, declare that I am an administrative assistant employed in the office of Howard Trapp Incorporated, Howard Trapp, Esq., the attorney for defendant Eric John Tudela Mafnas herein, and that I served the document to which this declaration is annexed on the following:

Timothy E. Moran, Esq., Assistant United States Attorney, by transmitting a facsimile thereof to him at (670) 236-2985 and by mailing a copy thereof to him at P.O. Box 500377, Saipan, MP 96950, his last known facsimile telephone number and mailing address, respectively, all on February 14, 2006;

Melinda N. Brunson, United States Probation Officer, the person charged with conducting the presentence investigation in this proceeding, by transmitting a facsimile thereof to her at (670) 236 2992 and by mailing a copy thereof to her at P.O. Box 687 CK, Saipan, MP 96950, her last known facsimile telephone number and mailing address, respectively, all on February 14, 2006; and

G. Anthony Long, Esq., the attorney for defendant Charlic Kintaro Patris, by transmitting a facsimile thereof to him at (670) 235-4801 and by mailing a copy thereof to him at P.O. Box 504970, San Jose, Saipan, MP 96950, his last known

facsimile telephone number and mailing address, respectively, all on February 14, 2006.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 14, 2006, at Hagåtña, Guam.



REINA Y. URBIEN